

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-100

June 12, 2002

TIDEWATER TELECOM
Request for Commission Investigation of
Rates for Local Exchange Service and
Intrastate Access Service

ORDER APPROVING
STIPULATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

In this Order we approve a Stipulation between Tidewater Telecom (Tidewater) and the Public Advocate that establishes a revenue requirement for Tidewater as well as current rate levels for local exchange service and access that are intended as steps toward meeting the requirements of Chapter 288 of the Commission's rules (High Cost Universal Service Fund).

To accept a stipulation the Commission must find that:

1. the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
2. the process that led to the stipulation was fair to all parties; and
3. the stipulated result is reasonable and is not contrary to legislative mandates.

See *Central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me. P.U.C. Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We find that the proposed Stipulation in this case meets all these criteria.

The Stipulation before us was entered between the Company and the OPA. In past cases, we have found that these two entities, representing often opposite views in the ratemaking process, constitute a sufficiently broad spectrum of interests to satisfy the first criteria. See *Public Utilities Commission, Investigation of Stranded Cost Recovery, Transmission and Distribution Utility Revenue Requirements and Rate Design of Bangor Hydro-Electric Company (Phase II)*, Docket No. 97-596, Order at 6 (Feb. 29, 2000) and *Maine Public Utilities Commission, Investigation of Retail Electric Transmission Services and*

Jurisdictional Issues, Docket No. 99-185, Order Approving Stipulation (Maine Public Service Company) at 3 (Aug. 11, 2000). In this case, we also note that our Advisory Staff was an active participant in the settlement process and has found that the Stipulation is reasonable. We are satisfied, therefore, that a broad spectrum of interests are represented by the Stipulation.

We also find that the second criterion has been met in this case. Our review of the procedural history in this case also indicates that all procedural safeguards were satisfied.

We find that the stipulated revenue requirement and rate design are reasonable. To establish the revenue requirement, the Company's direct case contained four major categories of adjustments to the test year: 1) a revenue reduction to reflect a reduction in access rates; 2) an increase to rate base to account for capital projects; 3) an increase to wage and benefit amounts; and 4) an adjustment to account for costs associated with the rate case itself. In the view of the advisory staff, the first three areas were relatively known and measurable, since the revenue reductions and spending increases have either already occurred or will occur with the implementation of the Stipulation. For the purpose of determining the reasonableness of the stipulated revenue requirement, the Staff reduced the fourth category (rate case expenses) to account for the fact that a settlement would likely reduce the claimed level of rate case expenses. This category in any event was fairly small. The staff also examined the capital structures of both companies and determined that they are reasonable, so that the adjusted test year results and the agreed-upon revenue increases appear to produce a reasonable return on equity for both companies.

Under the proposed rate design, the Company will increase basic local exchange service rates and, temporarily, intrastate access rates. On May 30, 2001, the Company had reduced its intrastate access rates to interstate NECA 5 levels consistent with the requirements of 35-A M.R.S.A. § 7101-B. It made this reduction as part of a previous stipulation in which the Company also agreed not to file a rate case for a stated period of time (a "stay-out" provision). At the time, it was anticipated that there would be a revenue deficiency following the stay-out. Accordingly, under the prior Stipulation, the Company was permitted to file a rate case nine months prior to the expiration of the stay-out period. The Company did so, resulting in the present Stipulation, which, as discussed above, establishes that there is a revenue deficiency.

Because of the revenue deficiency, it is necessary to increase some rates. Some of that increase is the form of a \$2 increase in local rates effective on June 1, 2002 (retroactively) and another \$1.50 increase on January 1, 2003. The remainder is in the form of an increase to access rates, which we view (and understand the parties also view) as a temporary substitute for universal service funding under Chapter 288. As a condition of eligibility to receive universal service funding by a high cost local exchange carrier, section 3(B)(2) of Chapter

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.